

City of Detroit



CITY COUNCIL

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TO: The Honorable City Council

FROM: David Whitaker 
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DATE: March 27, 2006

RE: **REAL ESTATE IN THE CITY OF DETROIT**

At the Honorable City Council's request through the Economic Development Subcommittee, the Research & Analysis Division (RAD) was asked to investigate and report on the Detroit Real Estate Broker's Association request for a land transfer from the City's property inventory. This report examines the legal framework controlling the disposition of municipal property and how it relates to the issues raised by the Petitioner.

The 1963 Michigan Constitution, Article IX, § 18 sets forth the general rule relative to the lending of municipal credit:

The credit of the state shall not be granted to, nor in aid of any person, association or corporation, public or private, except as authorized in this constitution.

Article VII, § 26 of the 1963 Michigan Constitution prohibits municipalities from lending of credit for any private purpose or, except as provided by law, for any public purpose¹. The phrase "lending of credit" has been interpreted to include the sales or exchange of public property for less than fair consideration². Therefore, the City is prohibited from transferring or granting land to a private person or entity without receiving fair consideration.

The City Charter places development matters and land disposition functions under the current Planning & Development Department (P&DD)³. The City Code sets forth the procedures utilized by the P&DD at Chapter 14 *Community Development*, Article VIII

¹ Public purposes include "uses for the general use and benefit of the public as a whole, such as schools, libraries, public institutions, administration buildings, parks, boulevards, playgrounds, streets, alleys, easements for sewers, public lighting, water, gas, or other similar utilities." *Sinas*, 382 Mich at 413.

² *Sinas v. Lansing*, 382 Mich 407, 412-413 (1969)

³ Sec. 6-204 (Planning) and Sec. 7-501 (Community and Economic Development).

Surplus Real Property and Property Used for Public Purposes and Chapter 26 *Housing*, Article III Sales or Conveyances of One- or Two-Family Dwellings.

Realtors selling property on behalf of the City, as proposed by the Petitioner, would necessitate a privatization analysis under § 6-307 of the Charter and § 18-5-100 of the Detroit City Code. The process outlined in the Charter and City Code would determine if removing the function of land sales from a City department to a third party acting as an agent on behalf of the City would run counter to the goals of the privatization ordinance or alter the City's liability exposure. The ordinance permits the City to obtain contractual services that expand services already provided by municipal employees, providing that the contractual services are not a replacement to the existing positions. Utilizing realtors to provide supplemental services while retaining full municipal staff raises fiscal implications and budgetary considerations in addition to the privatization concerns.

Privatization of the City's land sale process could have negative effects on redevelopment efforts in Detroit. By removing the P&DD from the land sales process the City would lose control over pricing and disposition. City Council's role to approve or reject land sale proposals submitted by the executive branch would also be abdicated.

A comprehensive discussion on the status and proposed implementation of the Detroit Property Inventory System (DPIS) by the P&DD would shed light on the current status of property sales as well as the future plan for identification and disposition of property. The existing City inventory of property has traditionally been a subject of debate⁴. The need for contiguous properties has been stressed by entities devoted to land reutilization, including for-profit and non-profit housing developers. Until the City can efficiently and accurately identify properties in its inventory, and coordinate communication between those responsible for property disposition, perceptions regarding the land sale process will not change⁵. Since Wayne County is now responsible for the collection and foreclosure of delinquent City property taxes⁶, properties will not flow to the City's inventory unless the City affirmatively selects the property from and pays the outstanding taxes.

Potential solutions could include the P&DD bundling property based on location or condition and submit a request for proposals. Interested entities could then bid on the bundles. This procedure could mandate that Detroit residents or Detroit based businesses would have the first crack at purchasing the bundles and steer properties back to the local community for reinvestment.

⁴ The current City property inventory has been the subject of numerous land disposition proposals including the revision of property dispositions programs, creation of a land bank, community land trusts, and development proposals. As noted, the City's property inventory is not being replenished and is finite.

⁵ Also of import is the City's land use policy and philosophically how it impacts land use decisions.

⁶ 246 PA 2003.